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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,166	09/12/2003	Richard Gary Rokusek	16512-US	7520

30689 7590 08/14/2006

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

EXAMINER

UNDERWOOD, DONALD W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/661,166	Applicant(s) ROKUSEK ET AL.	
	Examiner Donald Underwood	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/12/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>091203&062705</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The drawing is objected to under 37CFR1.84(p)(5). It fails to contain all numerals in the description. For example, 110b, 111, 302a, 302b, 302a, 306a, 307a, 315a, 315b, 320a and 510 appear in the description but not the drawing. Also numerals 302f, 306g, 306h and 330 appear in the drawing but not the description. The drawing and description should be reviewed and amended to assure the numerals in one appear in the other. The introduction of new matter should be guarded against.

In the specification, page 4, "304a" in line 10 and "304b" in line 17 should each be deleted since 304a and 304b already denote bolts and nuts in the drawing and description.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13, 15, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is unclear whether this is a combination claim including the setting system and the vehicle or a subcombination limited to the setting system. This deficiency is brought about by the inclusion of the vehicle structure in an intended use phrase in the preamble and a positive recitation of the vehicle in the body of the claim. If the claim is a combination claim the preamble should be rewritten to positively include the vehicle. If the claim is a subcombination claim then the body of the claim should be amended to set forth the vehicle inferentially. For example, a phrase similar to

--capable of-- should be inserted after "spring" in line 6 and "located" in line 12 should be --locatable--.

Further regarding claim 1 and regarding claim 6, the phrases "automatically moving" in claim 1, line 15, and "automatically moves" in claim 6, line 2, renders the claims indefinite and/or incomplete. The adjustment device is set forth as comprising a switch. It is unclear how the switch automatically moves the boom. It appears either the switch controls unclaimed vehicle cylinders or the adjustment device includes additional unclaimed elements to move the boom. Clarification is required. Finally it is unclear how the device records. It again appears structure is missing. Note claim 7 appears to comprise the structure needed in claim 1.

Regarding claim 4, this claim sets forth a result but not the structure to provide the result and is thus incomplete.

Regarding claim 8, this claim sets forth a desired result but not the structure to provide the result and is thus incomplete.

Regarding claim 12, it is unclear whether this is a combination or subcombination claim. See claim 1 above.

Regarding claims 15 and 16, the phrases "automatically moving" and "automatically releases" renders these claims incomplete. See claims 1, 4 and 6 above.

Regarding claim 17, the last three lines of this claim appear to set forth a mode of operation but it is unclear whether this is intended to be a step in the method. Clarification is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Anderson, et al..

Claim 14 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by European Patent Specification 0 718 593 B1.

See figure 4 of the reference where 12 rides in 13.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Donald Underwood 08/08/06
Donald Underwood
Primary Examiner
Art Unit 3652

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